



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

FACT SHEET FOR H.B. 2707

probation failure reduction incentive payments

Purpose

Effective January 1, 2022, requires the Administrative Office of the Courts (Administrative Office) to distribute probation failure reduction incentive payments (incentive payments) to each county to improve supervision and rehabilitation services for probationers. Outlines incentive payment calculation, distribution and reporting requirements.

Background

The presiding judge of each county superior court must appoint a chief adult probation officer who is responsible for hiring deputy adult probation officers to provide presentence investigations and supervision services to the court ([A.R.S. § 12-251](#)). Adult probation officers must: 1) make and file a complete record of persons placed under suspended sentence by the court, and of all reports made to the officer; 2) exercise general supervision and observation over persons under suspended sentence; 3) serve warrants, make arrests and bring persons before the court who are under suspended sentences; 4) investigate cases referred to the officer by the court; 5) secure and keep a complete identification record of every person released under a suspended sentence; 6) obtain and assemble information concerning the conduct of persons placed under suspended sentence and report the information to the court; 7) bring defaulting probationers into court as necessary; and 8) monitor the payment of restitution ([A.R.S. § 12-253](#)). An adult probation officer is prohibited from supervising more than 65 adults on standard probation at one time ([A.R.S. § 12-251](#)).

The Arizona Supreme Court administers state aid for probation services ([A.R.S. § 12-261](#)). A presiding judge of a county superior court may submit a plan to the Arizona Supreme Court to improve, maintain or expand juvenile probation services, or to achieve or maintain the average adult probation case supervision requirement ([A.R.S. § 12-262](#)). Upon approval of a plan, the Arizona Supreme Court enters into a funding agreement with the county and must make payments to the county as necessary to carry out the agreement ([A.R.S. § 12-263](#)). A county with a population greater than two million persons is ineligible for state aid for probation services ([A.R.S. § 12-269](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires the Administrative Office to calculate an incentive payment for each county for the most recently completed calendar year and proportionately allocate the incentive payments.

2. Specifies that the incentive payment for each county is equal to the estimated number of probationers prevented from returning to prison compared to the county-specific historical baseline, multiplied by 45 percent of the marginal cost of incarceration.
3. Requires each county to use incentive payments to improve supervision and rehabilitation services for probationers, including:
 - a) implementing and expanding evidence-based practices for risk and needs assessments for individualized programming;
 - b) implementing and expanding intermediate sanctions, including mandatory community restitution, home detention, day reporting, restorative justice programs and work furlough programs;
 - c) expanding the availability of evidence-based practices for rehabilitation programs, including drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs and job training and employment services;
 - d) hiring additional probation officers, associates or other personnel to supervise and help oversee and implement evidence-based practices for rehabilitative programming;
 - e) giving financial bonuses to probation officers in adult probation departments that receive incentive payments; or
 - f) evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.
4. Requires the Administrative Office to allocate incentive payments to each county for distribution to the county's adult probation department for probation programming.
5. Specifies that the incentive payments supplement, rather than supplant, any additional state or county appropriation for a county adult probation department.
6. Requires a county to allocate the incentive payments by distributing:
 - a) 60 percent to the county adult probation department for evidence-based practices;
 - b) 25 percent to the county adult probation department for performance-based financial bonuses for all probation officers within the department, and
 - c) 15 percent to the county for administrative and data collection purposes.
7. Requires a county, within 30 days of receiving incentive payments, to make the incentive payments and any interest available to the county's adult probation department for probation programming implementation.
8. Requires a county adult probation department to maintain a complete and accurate accounting of all monies received from incentive payments.
9. Requires the Director of the Arizona Department of Corrections (ADC), at the end of each calendar year, to calculate the marginal cost of incarceration for the calendar year and provide that information to the Administrative Office.
10. Requires the marginal cost calculation to consider the average length of stay in prison for a person who enters prison from probation and variable correction costs such as health care services, food and clothing.

11. Requires the Administrative Office, at the end of each calendar year, to gather data, calculate and report:
 - a) the probation failure rate for each county;
 - b) an estimate of the number of adult probationers each county successfully prevented from returning to prison; and
 - c) an accounting of the current total population of probationers per county for the previous three years.
12. Stipulates that for each county the estimate number of adult probationers successfully prevented from returning to prison is calculated based on the reduction in the county's probation failure rate adjusted for changes in adult probation caseload.
13. Derives a county's probation failure rate reduction by comparing the county's annually calculated probation failure rate to the county's baseline failure rate.
14. Specifies that the baseline failure rate equals the average number of adult probationers who returned to prison during calendar years 2008, 2015 and 2021 as a percentage of the average adult probation population during those years.
15. Specifies that the annually calculated probation failure rate and baseline probation failure rate includes probationers who returned to prison after:
 - a) revocation of probation; or
 - b) conviction of a new offense.
16. Requires the Administrative Office, if data of sufficient quality and type is not available, to use the best data available and a methodology that is as similar as possible to the statutory methodology when calculating probation failure reduction rates.
17. Requires the Administrative Office to include an estimate of the total monies that will be held and administered in the coming fiscal year as part of the proposed Judiciary budget.
18. Instructs a county board of supervisors (county BOS) to periodically provide oversight to ensure that disbursed monies are used as statutorily prescribed.
19. Requires each county adult probation department to define and track the following outcome-based measures:
 - a) the percentage of probationers who are supervised in accordance with evidence-based measures;
 - b) the specific eliminated supervision policies, procedures, programs and practices;
 - c) the percentage of probationers who successfully complete the period of supervision; and
 - d) the monies received by each adult probation department.
20. Requires each county adult probation department to submit an annual written report to the Administrative Office, the county BOS, and ADC that accounts for monies received from incentive payments and evaluates the effectiveness of the program.

21. Directs the Administrative Office, beginning July 1, 2023, to annually submit a comprehensive report on the implementation of incentive payments that includes:
- a) the effectiveness of the programs based on the probation department reports;
 - b) the percentage of adult probationers whose supervision was revoked;
 - c) the percentage of probationers who were convicted of criminal offenses during their term of supervision;
 - d) the impact of the incentive payments allocated to enhance public safety by the reduced percentage and number of probationers who returned to prison or whose supervision was revoked for violations or new convictions;
 - e) recommendations regarding resource allocations or additional collaboration with other governmental entities; and
 - f) the number of probationers whose supervision was revoked solely for a violation of the terms of probation and the number of probationers whose supervision was revoked due to a new offense.
22. Defines *baseline probation failure rate, evidence-based practices, marginal cost of incarceration, probation programming and returning to prison.*
23. Becomes effective on January 1, 2022.

House Action

CJR	2/17/21	DPA	9-0-0-0
3 rd Read	2/24/21		59-0-1

Prepared by Senate Research
March 5, 2021
LMM/DH/gs